

REMARKS/ARGUMENTS

Reconsideration of the present application, as amended, is respectfully requested.

The August 2, 2004 Final Office Action and the Examiner's comments have been carefully considered. In response, claims are cancelled, amended and added, and remarks are set forth below in a sincere effort to place the present application in form for allowance. The amendments are supported by the application as originally filed. Therefore, no new matter is added.

Inasmuch as the present Amendment raises no new issues for consideration, and, in any event, places the present application in condition for allowance or in better condition for consideration on appeal, its entry under the provisions of 37 CFR 1.116 are respectfully requested.

ALLOWABLE SUBJECT MATTER

The Examiner's indication that claims 16 and 39 are allowed, and that claims 45 and 46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form is acknowledged and appreciated. In response, claim 16 is amended to obviate the indefiniteness rejection and to be in better form for allowance, and claims 45 and 46 have been rewritten in independent form to include all of the

limitations of claim 1. The amendments to claim 16 are not related to the patentability of the claim.

REJECTION UNDER 35 USC 112, SECOND PARAGRAPH

In the Office Action claim 16 is rejected under the second paragraph of 35 USC 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In response, claim 16 is amended to remove the word "said" in line 34, as suggested by the Examiner.

In view of the amendment of claim 16, reconsideration and withdrawal of the rejection of claim 16 under the second paragraph of 35 USC 112 are respectfully requested.

REJECTIONS UNDER 35 USC 102

In the Office Action claims 1, 8, 9, 12, 15, 17-19, 22, 34-38, 40-42, 44, 47-55 and 57-66 are rejected under 35 USC 102(e) as being anticipated by USP 6,351,613 (Ohkado). In response, claims 1, 8, 9, 12, 15, 17-19, 22, 34-38, 40-42, 44, 47-55 and 57-66 are cancelled, thereby rendering the rejection under 35 USC 102 moot.

REJECTIONS UNDER 35 USC 103

In the Office Action claim 43 is rejected under 35 USC 103(a) as being unpatentable over USP 6,351,613 (Ohkado) in view of USP 5,768,640 (Takahashi et al.). Claim 56 is rejected under 35 USC 103(a) as being unpatentable over Ohkado in view of USP 6,222,985 (Miyake). In response, claims 43 and 56 are cancelled, thereby rendering the rejection under 35 USC 103 moot.

NEW CLAIMS

New claims 67-83 are added to the present application. Claims 67-83 are patentable over the references of records for reasons, inter alia, set forth below.

USP 6,351,613 (Ohkado) discloses that both the positioning timing and the photographing timing are determined in accordance with a common photographing instruction. After the positioning operation is started, a next photographing instruction cannot be made until the positioning operation is completed. Overlapping of the positioning operation and the photographing operation can thereby be prevented.

However, if a next photographing instruction is to be made or has been made during the positioning operation, photographing by suspension of the positioning operation cannot be executed. Therefore, if a long processing time is required for the

positioning operation, the photographing operation may be delayed and a good opportunity for photographing may be lost.

In contrast, according to new independent claim 67, the photographing instruction can be made at an arbitrary time without waiting for completion of the positioning operation. If the next photographing instruction has been made during the positioning operation, photographing can be executed by suspending the positioning operation. Therefore, even if a long processing time is required for the positioning operation, the photographing operation is not delayed and a good opportunity for photographing will not be lost.

Ohkado does not disclose, teach or suggest, inter alia, overlapping determination means for determining overlapping of the positioning timing determined by the positioning timing determination means and the timing of receiving the photographing instruction by the instruction means, and/or control means for, when the overlapping determination means determines that the timings overlap, inhibiting the positioning means from executing positioning at the overlapped positioning timing. See claims 67, lines 16-23.

None of the other references of record close the gap between the present claimed invention as defined by claim 67 and Ohkado.

Therefore, claim 67 is patentable over the cited references under 35 USC 102 as well as 35 USC 103.

Ohkado teaches that the positioning operation is not inhibited and positional information does not need to be selected from a plurality of positional information items acquired without inhibition.

According to claim 68, since there is a possibility that the positioning operation may be inhibited, positional information is selected from a plurality of positional information items acquired without inhibition.

Ohkado does not disclose, teach or suggest, inter alia, positional information storing means for storing the positional information selected from a plurality of positional information items acquired by the positioning means without being inhibited by the control means, in association with the photographed image stored by the storing means. See claim 68, lines 8-12.

Ohkado teaches that if the continuous photographing mode is set, the positioning operation is not executed during a plurality of continuous photographing operations. However, after the positioning operation is executed after continuous photographing, a next photographing instruction cannot be received until the positioning operation is completed. Therefore, the timing of continuous photographing may be lost.

According to claim 69, the start of continuous photographing can be instructed at an arbitrary time irrespective of the timing of the positioning operation. In addition, overlapping of the positioning timings during continuous photographing is determined. If the timings overlap, the positioning operation is suspended and the continuous photographing is continued. Therefore, the continuous photographing can be started at any time, an interval of the continuous photographing is not varied and the continuous photographing is not suspended by the positioning operation.

Ohkado does not disclose, teach or suggest overlapping determination means for determining the overlapping of the timings if the positioning timing is determined by the positioning timing determination means during a period from a time when the image storing means starts the continuous photographing to a time when the image storing means ends the continuous photographing. See claim 69, lines 5-10.

Ohkado also does not disclose, teach or suggest the selection means for selecting one of a positioning operation by the positioning means and a photographing operation by the image storing means which has a high priority, and wherein the control means inhibits the positioning means from executing positioning operation at the overlapped positioning timings, when the

positioning timing determined by the positioning timing determination means and the timing of receiving the photographing instruction by the instruction means overlap, and the photographing operation is selected by the selection means as recited in claims 75, 76 and 77.

In view of the foregoing, dependent claims 68-79 are patentable over the cited references for the foregoing reasons, and in view of the dependence of claims 68-79 on claim 67.

In Ohkado, an object of notification is to notify the operator that the positional information corresponding to the image data is not positional information concerning immediate positioning. Since the timing of positioning and the timing of photographing do not overlap, notification to prevent the photographer from making the photographing instruction during the positioning operation is unnecessary.

On the other hand, according to new independent claim 80, notification prevents the photographer from making the photographing instruction during the positioning operation, by notifying the photographer that the positioning operation is being executed. In other words, if the photographer makes a photographing instruction during the positioning operation, the timing of positioning and the timing of photographing may overlap. Notification is therefore necessary.

Ohkado does not disclose, teach or suggest notification means for notifying that positioning is executed by the positioning means in a period during which the positioning is executed by the positioning means, and control means for inhibiting the image storing means from executing photographing during a period until the positioning of the positioning means has ended, if the positioning timing determined by the positioning timing determination means and the timing of receiving the photographing instruction by the instruction means overlap. See claim 80, lines 16-24.

Ohkado also does not disclose, teach or suggest the selection means for selecting one of a positioning operation by the positioning means and a photographing operation by the image storing means which has a high priority, and wherein the control means inhibits the positioning means from executing the positioning operation at the overlapped positioning timings, when the positioning timing determined by the positioning timing determination means and the timing of receiving the photographing instruction by the instruction means overlap, and the photographing operation is selected by the selection means. See claim 81, lines 2-10.

None of the other references of record close the gap between the present claimed invention as defined by claims 80 and 81 and

Ohkado. Therefore, claims 80 and 81 are patentable over the cited references under 35 USC 102 as well as 35 USC 103.

Claims 82 and 83 are method claims which correspond to claims 67 and 80 respectively. Claims 82 and 83 are patentable over the cited references for reasons, *inter alia*, set forth above in connection with claims 67 and 80.

In view of all of the foregoing, new claims 67-83 are in form for immediate allowance, which action is earnestly solicited.

CLAIM FEE

The present application now includes eight (8) independent claims and twenty-one (21) total claims, and the highest number of independent and total claims for which payment was previously made is twenty-one (21) and forty-two (42) respectively.

Therefore, it is respectfully submitted that no fee is due for the addition of new claims 67-83. However, if it is determined that any additional fee is due for the presentation of new claims 67-83, please charge our Deposit Account No. 06-1378 for such sum.

* * * * *

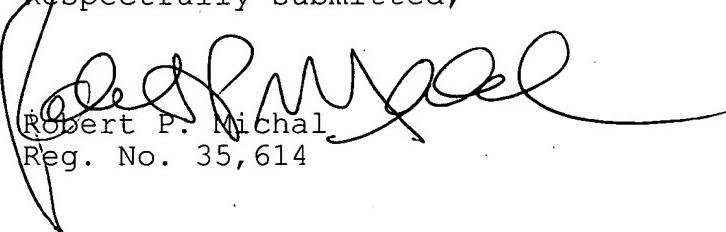
Appln. No. 09/667,390
Amendment dated November 1, 2004
Reply to Office Action of August 2, 2004

Entry of this Amendment under the provisions of 37 CFR 1.116, allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner disagrees with any of the foregoing, the Examiner is respectfully requested to point out where there is support for a contrary view.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,



Robert P. Michal
Reg. No. 35,614

Frishauf, Holtz, Goodman & Chick, P.C.
767 Third Avenue - 25th Floor
New York, New York 10017-2032
Tel. (212) 319-4900
Fax (212) 319-5101
RPM/ms